

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

NIPPON SHINYAKU CO., LTD.,

Plaintiff,

v.

SAREPTA THERAPEUTICS, INC.,

Defendant.

C.A. No: 21-1015-JLH

SAREPTA THERAPEUTICS, INC. and THE
UNIVERSITY OF WESTERN
AUSTRALIA,

Defendant/Counter-Plaintiffs,

v.

NIPPON SHINYAKU CO., LTD. and NS
PHARMA, INC.,

Plaintiff/Counter-Defendants.

VOIR DIRE

Good morning, ladies and gentlemen. We are here to select a jury in a civil case called *Nippon Shinyaku Co., Ltd. v. Sarepta Therapeutics, Inc.* I am Judge Fallon, and I am presiding over the jury selection today. Judge Hall will be presiding over this trial.

For those of you selected to serve as jurors, I will give you more detailed instructions once you are sworn in as jurors and again at the conclusion of the trial. For now, I will simply tell you that this is a patent lawsuit involving the treatment of a medical condition referred to as Duchenne Muscular Dystrophy, or DMD. The patents at issue involve treatments for DMD using what are called antisense oligonucleotides.

I will now ask you certain questions, the purpose of which is to: (1) enable the Court to determine whether any prospective juror should be excused for cause; and (2) enable counsel for

the parties to exercise their individual judgment with respect to peremptory challenges, that is, challenges for which no reason need be given by counsel.

You each have a list of the questions that I am also going to read out loud. If any of you answer “yes” to any of the questions that I ask, please make a note to yourself about which questions you had “yes” answers to. At the end of the questions, the Courtroom Deputy may ask some of you whether you had any “yes” answers and, after that, the lawyers and I may ask those of you who answered “yes” to one or more questions to come back to the jury room to discuss your answers with the lawyers and me.

The presentation of evidence in this case is expected to take five (5) days, excluding today, but jury deliberations, which happens after the closing arguments, could extend your service beyond that. The schedule that the Court expects to keep over the days of evidence presentation will include a morning break of fifteen minutes, a lunch break of up to an hour, and an afternoon break of fifteen minutes. We will start at 9:00 a.m. and finish between approximately 4:30 and 5:00 p.m. each day.

Before I ask any questions, I am going to ask my Courtroom Deputy to swear the jury panel to answer all questions truthfully.

Now I will read the questions. Remember, make a note on your paper if you have a “yes” answer to a particular question.

1. Does this schedule that I have just mentioned present a special problem to any of you?
2. Have any of you heard or read anything about this case?
3. The lawyers and law firms involved in this case are:
 - Amanda Williamson, David Schrader, Amy Dudash, Krista Venegas, Wan-Shon Lo, Christopher Betti, Jitsuro Morishita, Michael Sikora, Zachary Miller, Alison Patitucci, Maria Doukas, Julie Goldemberg, and Jason White from Morgan Lewis & Bockius LLP

- Pilar Kraman and Robert M. Vrana from Young Conaway Stargatt & Taylor, LLP
- Kaitlyn Pehrson, Ryan O'Quinn, William Raich, Jameson K. Gardner, and Yoonjin Lee from Finnegan Henderson Farabow Garrett & Dunner, LLP
- Michael A. Morin, David P. Frazier, Michele D. Johnson, Rebecca L. Rabenstein, Ernest Yakob, Rachel R. Blitzer, Will Orlady, Drew Wiley Roberts, Tiffany Weston, and Daniel Hemming from Latham & Watkins LLP
- Jack Blumenfeld, Megan Dellinger, and Rodger Smith from Morris Nichols Arsht & Tunnell LLP

Do any of you or anyone close to you know any of the attorneys or law firms I have just named, or have any of you or anyone close to you had any business dealings with, or been employed by, any of these attorneys or law firms?

4. Have any of you or anyone close to you ever been employed by, owned stock in, or had a business relationship with any of the following companies: Nippon Shinyaku Co., Ltd.; NS Pharma, Inc.; Sarepta Therapeutics, Inc.; AVI BioPharma, Inc.; the University of Western Australia; or the National Center of Neurology and Psychiatry?
5. Do you have any opinions, positive or negative, about any of the companies mentioned in the last question that might keep you from being a fair and impartial juror in this case?
6. Are you familiar with, or have you or anyone close to you had any experience with antisense oligonucleotide drugs, VYONDYS 53®, or VILTEPSO®?
7. The potential witnesses in this case are:
 - Dr. Shin'ichi Takeda
 - Naoki Watanabe
 - Stephen Sudovar
 - Gardner Gendron
 - Kazuchika Takagaki
 - Masaya Toda
 - Dr. Christine Esau
 - Dr. Nathan Luedtke
 - Dr. Jonathan Strober
 - Mark Hosfield

- Dr. Matthew Wood
- Dr. Michelle Hastings
- Dr. Scott Kamholz
- Abbie Adams
- Dr. Richard Bestwick
- Dr. Sue Fletcher
- Brian Forsa
- Dr. Diane Frank
- Ethan Jacoby
- Jurjus Jurayj
- Dr. Leslie Magnus
- Amy Mandragouras
- Angela Melia
- Penelope Meloni
- Emily Naughton
- Patrick O'Malley
- Youhei Satou
- Dr. Fred Schnell
- Dr. Ihor Sehinovych
- Paul Shanahan
- Natsuko Tanaka
- Dr. Steve Wilton
- Ryan Wong
- Joe Zenkus
- John Jarosz
- Dr. Steve Dowdy
- Drew Hirshfeld
- Dr. Stanley Nelson
- Dr. Bradley Pentelute
- Zhengyu Feng
- Toshihiro Ueda
- Donald Foy

Are you familiar with any of these potential witnesses?

8. Have you or has someone close to you ever had any experiences with patents, patent law, patent licenses, a dispute about patent rights, or the U.S. Patent and Trademark Office, or do you have strong feelings about any of those things?
9. Do you have strong views, positive or negative, about pharmaceutical companies in general?

10. Do you have any strong feelings regarding animal testing done as part of drug development that would make it difficult for you to be a fair and impartial juror in this case?
11. Have you or anyone close to you ever worked for a company that develops, manufactures, markets, or sells medications?
12. Do you have any education, training, or work experience in the fields of: chemistry, biology, medicine, or law?
13. Have you or anyone close to you known someone who suffers or suffered from Duchenne Muscular Dystrophy or another muscular dystrophy or another serious genetic disease?
14. Have you ever served on a jury?
15. Have you or has someone close to you ever been involved in a lawsuit?
16. Have you ever had an experience with the legal system that might prevent you from being a fair and impartial juror in this case?
17. If you are selected to serve as a juror in this case, are you aware of any reason why you would be unable to render a verdict based solely on the evidence presented at trial?
18. Do you have any condition, such as poor vision, difficulty hearing, or difficulty understanding English that would make it difficult or impossible for you to serve as a juror in this case?
19. This is the last question. Is there anything else, including something you have remembered in connection with one of the earlier questions, that you think you would like to tell me in connection with your service as a juror in this case?